

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed July 7, 2004 (Paper No. 14). Upon entry of this response, claims 21, 25, 28-30, 32-34, 36-43, 45-52, and 54-69 are pending in the application. In this response, claims 39, 59, and 62 have been amended, claims 63-69 have been added and claims 22, 24, 27, 31, 35, 44, and 53 have been cancelled. Applicants respectfully request that the amendments being filed herewith be entered and request that there be reconsideration of all pending claims.

1. Rejection of Claims 39 and 59 under 35 U.S.C. §102

Claims 39 and 59 have been rejected under §102(e) as allegedly anticipated by *Reitmeier* (U.S. 6,115,080). Applicants respectfully submit that this rejection has been overcome by the claim amendments herein. A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983).

Applicants respectfully submit that *Reitmeier* does not disclose, teach, or suggest the feature of “receiving a plurality of pictures including at least one picture corresponding to each respective television program in the plurality of television programs, wherein at least one of the pictures corresponds to a television program to be broadcast in the future” as recited in amended claim 39, or the feature of “at least one tuner configured to receive a plurality of pictures including at least one picture corresponding to each respective television program in the plurality of television programs, wherein at least one of the pictures corresponds to a television program to be broadcast in the future” as recited in amended claim 59.

Reitmeier discloses a television receiver with an on-screen electronic programming guide. (Col. 16, lines 65-67). The electronic program guide (EPG) includes image information “derived from the channel scanning routine 200 previously described with respect to FIG. 2, which provided image information (e.g., an I-Frame) associated with each of a plurality of available channels” (Col. 15, lines 20-27). Since the images displayed along with the EPG are produced from scanning channels in real-time, these images do not correspond to “a television program to be broadcast in the future” as recited in amended claims 39 and 59.

Reitmeier also discloses an enhanced function EPG. The enhanced EPG includes a “plurality of sub-images arranged in a grid.” (Col. 16, lines 15-20). “Each sub-image is formed by tuning a respective physical or virtual channel, demultiplexing a video program within the tuned channel, extracting a video frame from the demultiplexed video stream (e.g., an I-frame)” (Col. 16, lines 30-35). Since these sub-images are produced from the tuned channel in real-time, these images do not correspond to “a television program to be broadcast in the future” as recited in amended claims 39 and 59.

For at least the reason that *Reitmeier* fails to disclose, teach or suggest “wherein at least one of the pictures corresponds to a television program to be broadcast in the future,” Applicant respectfully submits that amended claims 39 and 59 overcome the rejection. Therefore, Applicants request that the Examiner’s rejection of claims 39 and 59 be withdrawn.

2. Rejection of Claims 21, 22, 24, 25, 27-38, and 41-58 under 35 U.S.C. §103

Claims 21, 22, 24, 25, 27-38, and 41-58 have been rejected under §103(a) as allegedly obvious over *Pauley* (U.S. 5,900,916) in view of *Matthews* (U.S. 5,815,145). Applicants respectfully traverse these rejections. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited

combination of references must disclose, teach, or suggest, either implicitly, all elements/feature/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

a. Claims 21, 32, 41, 48, and 54

Applicants respectfully submit that claims 21, 32, 41, 48, and 54, are allowable for at least the reason that the proposed combination of *Pauley* in view of *Matthews* does not disclose, teach, or suggest at least the feature of “receiving via a tuner a program guide data including program information related to the first video program and program information related to the second video program and program information related to a third video program; outputting the program guide data to the display device simultaneously with the first plurality of video programs” as recited in claim 21. Nor does the proposed combination disclose, teach, or suggest at least the feature of “receiving via a tuner a program guide data including program information related to the first video program and program information related to the second video program; responsive to receiving the first user input outputting to a display device a television signal comprising of a simultaneous visual presentation of the plurality of video programs with program guide data” as recited in claim 32. Furthermore, the proposed combination does not disclose, teach, or suggest at least the feature of “at least one processor that is programmed by the executable instructions to enable the DHCT to...receiving via at least one tuner a program guide data including program information related to the first video program and program information related to the second video program; outputting the program guide data to the display device simultaneously with the first plurality of video programs” as recited in claim 41. Nor does the proposed combination disclose, teach, or suggest at least the feature of “receiving via at least one tuner a program guide data including program information related to the first

video program and program information related to the second video program; outputting at least a portion of program information related to the first and second video programs to the display device responsive to receiving the user input; wherein the first and second video programs and the program guide data are displayed simultaneously by the display device” as recited in claim 48. Finally, the proposed combination does not disclose, teach, or suggest at least the feature of “at least one tuner configured to receive a program guide data including program information related to the first video program and program information related to the second video program; at least one processor that is programmed by the executable instructions to enable the DHCT to: output the program guide data and the plurality of video programs simultaneously to a display device responsive to a first user input” as recited in claim 54.

Matthews fails to teach, suggest or disclose ***program information included within a received program guide*** and related to video programs displayed simultaneously with the video programs. The Office Action alleges that “*Matthews* shows a number of broadcast video images 104/104a which include program information 106a displayed in a corresponding video program guide area” (Office Action, p. 3, paragraph 3). Applicants respectfully submit that the first discussion of panel 106 in *Matthews* describes the contents of the panel as including “a channel number, a channel logo or icon, and a name corresponding to the programming or programming provider” (Col. 4, lines 55-60). However, the discussion in this paragraph does not disclose the source of this channel information. Applicants assume, *arguendo*, that the channel number, icon and provider name correspond to Applicants’ claimed “program information.” Even so, this passage in *Matthews* does not disclose, teach, or suggest that the channel panel information is included within received program guide data, as recited in claims 21, 32, 41, 48, and 54.

The second, and only remaining, discussion of the channel panel 106 in *Matthews* is found in Col. 5, line 61 to Col. 6, line 10:

Process block 124 indicates that video program guide format information is retrieved by CPU 66 from memory system 68. The format information includes, for example, an array format indicating the number and arrangement of video programming tiles 102 in video program guide 100, a channel assignment listing that maps channels available on IT system 10 to particular video programming tiles 102, channel video access information pointing to sources of multi-frame and single frame video segments for channels, and ***text and graphic information corresponding to the channels for rendering within channel identification panels 106.*** As described below in greater detail, the video program guide format information preferably is definable by the viewer to provide a viewer-specified arrangement of channels in video program tiles 102 for each viewer station 16.

Nowhere does *Matthews* disclose that the information in channel identification panel is included within received program guide data.

The Office Action admits that *Pauley* does not disclose “receiving program information related to each program and displaying the program information in an area corresponding to the program.” (Office Action, p. 3, paragraph 3). Accordingly, the proposed combination of *Pauley* in view of *Matthews* does not teach the above-described features recited in claims 21, 32, 41, 48, and 54. Since the proposed combination does not teach at least these features, a *prima facie* case establishing an obviousness rejection by *Pauley* in view of *Matthews* has not been made. Thus, claims 21, 32, 41, 48, and 54 are not obvious under the proposed combination, and the rejection should be withdrawn.

b. Claims 28 and 36

Applicants respectfully submit that claims 28 and 36 are allowable for at least the reason that the proposed combination of *Pauley* in view of *Matthews* does not disclose, teach, or suggest

at least the feature of “scaling down the spatial resolution of the first and second video programs prior to outputting the first and second video programs to the display device” as recited in claims 28 and 36.

The Office Action alleges that “*Matthews* inherently scales down the resolution of the first and second programs prior to displaying them otherwise; it would be impossible to display the programs within the smaller windows as shown in Figure 4.” (Office Action, p. 4, paragraph 4). Applicants respectfully disagree. The video displayed in the small window of Figure 4 could be received at a low spatial resolution that fits in the small window, in which case scaling down is not necessary. Since at least one other technique to accomplish this same result exists, *Matthews* does not inherently disclose scaling down the resolution.

Accordingly, the proposed combination of *Pauley* in view of *Matthews* does not teach the above-described features recited in claims 28 and 36. Since the proposed combination does not teach at least these features, a *prima facie* case establishing an obviousness rejection by *Pauley* in view of *Matthews* has not been made. Thus, claims 28 and 36 are not obvious under the proposed combination, and the rejection should be withdrawn.

c. Claim 38

Applicants respectfully submit that claim 38 is allowable for at least the reason that the proposed combination of *Pauley* in view of *Matthews* does not disclose, teach, or suggest at least the feature of “wherein the step of outputting the program guide data and the plurality of video programs simultaneously to the display device is performed responsive to the first user input provided by a single activation of a single input key” as recited in claim 38.

The Office Action alleges that the above-described features are disclosed by *Pauley* in Col. 5, line 62 to Col. 6, line 36 (Office Action, p. 4, paragraph 5). Applicants respectfully

disagree, and assert that *Pauley* contains no discussion at all of “outputting the program guide data.” Furthermore, Applicants respectfully assert that *Matthews* teaches that multiple keys are required to display program guide data simultaneously with multiple video images: the program guide must first be accessed (step 120 of FIG. 5), then a particular tile must be selected for focus (step 126 of FIG. 5).

Accordingly, the proposed combination of *Pauley* in view of *Matthews* does not teach the above-described features recited in claim 38. Since the proposed combination does not teach at least these features, a *prima facie* case establishing an obviousness rejection by *Pauley* in view of *Matthews* has not been made. Thus, claim 38 is not obvious under the proposed combination, and the rejection should be withdrawn.

d. Claims 22, 24, 27, 31, 35, 44, and 53

Claims 22, 24, 27, 31, 35, 44, and 53 are cancelled without prejudice, waiver, or disclaimer, and the rejection of these claims is therefore rendered moot. Applicants take this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicants reserve the right to pursue the subject matter of these cancelled claims in a continuing application, if Applicants so choose, and do not intend to dedicate any of the cancelled subject matter to the public.

e. Claims 25, 27, 29-30, 33-34, 37-38, 42-43, 45-47, 49-52, and 55-58

Since claims 21, 32, 41, 48, and 54 are allowable, Applicants respectfully submit that claims 25, 27, 29-30, 33-34, 37-38, 42-43, 45-47, 49-52, and 55-58 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d

1596, 1598 (Fed. Cir. 1988). Therefore, Applicants respectfully request that the rejection of claims 25, 27, 29-30, 33-34, 37-38, 42-43, 45-47, 49-52, and 55-58 be withdrawn.

3. Rejection of Claims 40 and 60-62 under 35 U.S.C. §103

Claims 40 and 60-62 have been rejected under §103(a) as allegedly obvious over *Reitmeier* (U.S. 6,115,080) in view of *Matthews* (U.S. 5,815,145). Applicants respectfully traverse these rejections. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly, all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

a. Claim 61

Applicants respectfully submit that claim 61 is allowable for at least the reason that the proposed combination of *Reitmeier* in view of *Matthews* does not disclose, teach, or suggest at least the feature of “configuring an output buffer in the memory with a plurality of video sections including a first video section for a plurality of scaled time-sequential pictures” as recited in claim 61.

Reitmeier does not disclose, teach, or suggest using at least “a plurality of video sections including a **first video section for a plurality of scaled time-sequential pictures.**” *Reitmeier* discloses a memory unit 76 and a display buffer 55, but neither discloses these claimed limitations.

Reitmeier describes the memory unit 76 as follows:

The video elementary stream is then parsed to identify one or more I-frames within the video elementary stream. Each time an I-frame

is identified, the identified I-frame is stored in a location in memory 34 associated with the particular program stream. Thus, the memory location is constantly overwritten with a new I-frame each time a new I-frame is identified. (Col. 5, lines 47-55.)

Applicants assume, *arguendo*, that the memory location associated with a particular program stream corresponds to Applicants' claimed "video section." Even so, this passage clearly teaches that the memory location contains only one picture, not a plurality of pictures.

Several passages in *Reitmeier* discuss the display frame buffer 55: Col. 4, lines 56-67; Col. 5, lines 1-15; and Col. 12, lines 14-21. None of these passages disclose or even suggest that the display frame buffer is partitioned into sections. Even assuming, *arguendo*, that the buffer does contain a different section for each channel, each of these passages clearly teaches that the buffer stores only a single picture for each channel.

Matthews discloses a set-top box that includes a memory system 68 and a graphics subsystem 72. (Col. 4, lines 9-25). However, there is no teaching or suggestion in *Matthews* that either one contains multiple video sections.

Accordingly, the proposed combination of *Reitmeier* in view of *Matthews* does not teach the above-described features recited in claim 61. Since the proposed combination does not teach at least these features, a *prima facie* case establishing an obviousness rejection by *Reitmeier* in view of *Matthews* has not been made. Thus, claim 61 is not obvious under the proposed combination, and the rejection should be withdrawn.

b. Claims 40, 60, and 62

Since claims 39, 59, and 61 are allowable for at least the reasons discussed above, Applicants respectfully submit that claims 40, 60, and 62 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598

(Fed. Cir. 1988). Therefore, Applicants respectfully request that the rejection of claims 40, 60, and 62 be withdrawn.

4. Traversal of Official Notice in Rejection of Claim 50

Applicants respectfully traverse the following Official Notice statement in the rejection of claim 50:

The Examiner takes official notice that utilizing a tuner to retrieve EPG information is well known in the art (Office Action, p. 5).

Applicants note that claim 50 does not recite “utilizing a tuner to retrieve EPG information” as stated in the rejection, but instead recites “receiving the program guide data via a *third* tuner prior to receiving the user input.” Applicants respectfully assert that the claimed feature is not capable of instant and unquestionable demonstration as being well known.

Therefore, Applicants respectfully submit that the Official Notice is improper. Applicants direct Examiner’s attention to MPEP §2144.03(b):

It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or *specific knowledge of the prior art* must always be supported by citation to some reference work recognized as standard in the pertinent art. (Emphasis added.)

Furthermore, Applicants respectfully submit that this Official Notice statement is improper for the additional reason that the Examiner did not provide specific factual findings as directed by the MPEP:

If such notice is taken, the basis for such reasoning must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge (MPEP §2144.03(b)).

5. Newly Added Claims

Applicants submit that no new matter has been added in the new claims 63-69 and that new claims 63-69 are allowable over the cited references. Therefore, Applicants request that the Examiner enter and allow the above new claims.

CONCLUSION

Applicants respectfully request that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 21, 25, 28-30, 32-34, 36-43, 45-52, and 54-69 be allowed to issue. Although some dependent claim rejections and some obviousness rejections are explicitly addressed above, the omission of arguments for other claims is not intended to be construed as an implied admission that the Applicants agree with the rejection or finding of obviousness for the respective claim or claims. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,

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